

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2004

CORAM

THE HONOURABLE MR.JUSTICE P.K.MISRA

W.P.NO.18950 OF 1996

1. P. Mallika
2. P. Balasubramaniam
3. Minor P. Hemalatha
4. Minor P. Senthilvelan
5. Minor P. Naveen
(Petitioners 1 to 5 substituted
as per order of Court dated
4.7.2000 in WMP.No.27440/99) .. Petitioners

-Vs-

1. State of Tamil Nadu
rep. by Secretary to Government,
Housing and Urban Development Department
Fort St. George
Madras-600 009

2. The Special Tahsildar,
Land Acquisition,
Trichirappalli Housing and Rural Scheme,
No.1 & 2, Shopping Complex
Old Circuit House Colony
Mannarpuram
Trichy-620 020 .. Respondents

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorari calling for the records relating to notification issued in G.O.Ms.580, Housing and Urban Development LAI(1), dated 21.6.1995 published in the Tamil Nadu Government Gazette Part II Section 2 (Supplementary) on 19.7.199 5 , etc. and to quash the same including all subsequent actions and including award with respondent to the petitioner herein.

!For Petitioners : Mr.G.Ethirajulu

For Respondents : Ms.Thenmozhi Shivaperumal,
A.G.P.

:ORDER

Heard the learned counsels appearing for the parties. The petitioners have challenged Declaration under Section 6 of the Land Acquisition Act relating to acquisition of land belonging to the petitioners.

2. One of the contentions raised by the petitioners is to the effect that substance of the notification was not published in the locality as contemplated under Rule 2 of the Land Acquisition (Tamil Nadu) Rules of the Act, hereinafter referred to as [the Rules].

3. Rule 2 of the Land Acquisition (Tamil Nadu) Rules is to the following effect:

"Rule 2: The Collector shall cause public notice of the substance of the notification under Sub section (1) of Section 4 in Form 'A'. The notice shall be published at convenient places in the locality and copies thereof fixed up in the offices, of the Collector and the Tahsildar."

4. In course of hearing the learned counsel for the State referred to the document at page 183 of the file produced by the respondents, wherein the substance of notification has been indicated and has been signed. There is nothing in the said document or in the subsequent document to indicate that the substance of the notification had been published at convenient places in the locality and copies thereof had been affixed in the offices of the Collector and the Tahsildar as required under Rule 2 of the Land Acquisition (Tamil Nadu) Rules.

5. It has been held in several decisions of this Court that the requirement of publication of 4(1) notification are mandatory and all the three rules indicated must be followed.

6. In the present case, there is no dispute that the publication had been made in the Gazette as well as in the newspapers. The only dispute is relating to compliance of the requirement regarding publication of the substance in the locality as contemplated under Section 4(1) r/w Rule 2 of the Rules. Merely because the copy signed by the Authority contains the substance of the notification, it would not be sufficient to come to a conclusion that such substance had been published as required under Rule 2 of the Rules.

7. For the aforesaid reasons, the writ petition is allowed and the declaration under Section 6 is quashed. It is needless to point out that it would be open to the appropriate authorities to take fresh steps for acquisition of the land in accordance with law if there is any necessity. No costs.

Index : Yes

Internet : Yes

vvk/dpk

To

1. The Secretary to Government,
State of Tamil Nadu
Housing and Urban Development Department
Fort St. George
Madras-600 009

2. The Special Tahsildar,
Land Acquisition,
Trichirappalli Housing and Rural Scheme,
No.1 & 2, Shopping Complex
Old Circuit House Colony
Mannarpuram
Trichy-620 020

□